

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Menendez

H.B. No. 38

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the penalty for an offense involving motor vehicle  
3 airbags.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 547.614, Transportation Code, is amended  
6 by amending Subsections (a-2) and (b) and adding Subsection (e) to  
7 read as follows:

8 (a-2) A person commits an offense if the person:

9 (1) knowingly or recklessly makes or sells a  
10 counterfeit airbag to be installed in a motor vehicle;

11 (2) intentionally alters an airbag that is not  
12 counterfeit in a manner that causes the airbag to not meet all  
13 applicable federal safety regulations for an airbag designed to be  
14 installed in a vehicle of a particular make, model, and year;

15 (3) represents to another person that a counterfeit  
16 airbag installed in a motor vehicle is not counterfeit; ~~or~~

17 (4) knowingly or recklessly sells a motor vehicle in  
18 which an airbag is not installed without clearly disclosing that  
19 the vehicle does not have an airbag; or

20 (5) causes another person to violate Subsection (a-1)  
21 or Subdivision (1), (2), ~~or~~ (3), or (4) or assists a person in  
22 violating Subsection (a-1) or Subdivision (1), (2), ~~or~~ (3), or  
23 (4).

24 (b) Except as provided by Subsections (c), ~~and~~ (d), and

1 (e), an offense under this section is a state jail felony [~~Class A~~  
2 ~~misdemeanor~~].

3 (e) An offense under this section is a felony of the first  
4 degree if it is shown on the trial of the offense that the offense  
5 resulted in the death of a person.

6 SECTION 2. The change in law made by this Act applies only  
7 to an offense committed on or after the effective date of this Act.  
8 An offense committed before the effective date of this Act is  
9 covered by the law in effect on the date the offense was committed,  
10 and the former law is continued in effect for that purpose. For  
11 purposes of this section, an offense was committed before the  
12 effective date of this Act if any element of the offense occurred  
13 before that date.

14 SECTION 3. This Act takes effect September 1, 2013.

ADOPTED

MAY 22 2013

  
Governor

By: Murendez/Paxton

H.B. No. 38

Substitute the following for H.B. No. 38 :

By: 

C.S. H.B. No. 38

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the penalty for an offense involving motor vehicle  
3 airbags.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 547.614, Transportation Code, is amended  
6 by amending Subsection (b) and adding Subsection (e) to read as  
7 follows:

8 (b) Except as provided by Subsections (c), ~~[and]~~ (d), and  
9 (e), an offense under this section is a state jail felony [Class A  
10 misdemeanor].

11 (e) An offense under this section is a felony of the first  
12 degree if it is shown on the trial of the offense that the offense  
13 resulted in the death of a person.

14 SECTION 2. The change in law made by this Act applies only  
15 to an offense committed on or after the effective date of this Act.  
16 An offense committed before the effective date of this Act is  
17 covered by the law in effect on the date the offense was committed,  
18 and the former law is continued in effect for that purpose. For  
19 purposes of this section, an offense was committed before the  
20 effective date of this Act if any element of the offense occurred  
21 before that date.

22 SECTION 3. This Act takes effect September 1, 2013.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 23, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB38** by Menéndez (Relating to the penalty for an offense involving motor vehicle airbags.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Transportation Code as it relates to the penalty for an offense involving motor vehicle airbags. Under the provisions of the bill, the penalty for an offense involving motor vehicle airbags would be increased from a class A misdemeanor to a state jail felony. The bill would also expand the penalty range creating a first degree felony if an offense involving motor vehicle airbags resulted in death. Under current law, an offense involving motor vehicle airbags is a state jail felony if the offense results in serious bodily injury or a third degree felony if the person committing the offense has a previous conviction for an offense involving motor vehicle airbags.

The bill would take effect on September 1, 2013 and apply to offenses committed on or after that date.

Increasing the penalty or expanding the penalty range for any criminal offense is expected to result in increased demands upon the correctional resources of counties and or the State due to longer terms of probation, or longer terms of confinement in county jail, state jail, or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the State. For this analysis, the Legislative Budget Board staff assumes the number of offenders convicted under the provisions of the bill would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies. In fiscal year 2012, less than 10 people were arrested, placed on probation, or admitted to a state correctional facility for an offense involving motor vehicle airbags. Additionally in fiscal year 2012, less than 10 people were under community supervision or incarcerated within a state correctional facility for an offense involving motor vehicle airbags.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** UP, SD, AG, LM

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Robert Nichols, Chair, Senate Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB38** by Menéndez (Relating to the penalty for an offense involving motor vehicle airbags.), **Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Transportation Code as it relates to the penalty for an offense involving motor vehicle airbags. Under the provisions of the bill, the penalty for an offense involving motor vehicle airbags would be increased from a class A misdemeanor to a state jail felony. The bill would also expand the penalty range creating a first degree felony if an offense involving motor vehicle airbags resulted in death. Under current law, an offense involving motor vehicle airbags is a state jail felony if the offense results in serious bodily injury or a third degree felony if the person committing the offense has a previous conviction for an offense involving motor vehicle airbags.

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**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** UP, AG, LM

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 19, 2013**

**TO:** Honorable Robert Nichols, Chair, Senate Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB38** by Menéndez (Relating to the penalty for an offense involving motor vehicle airbags.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code as it relates to the penalty for an offense involving motor vehicle airbags. Under the provisions of the bill, the penalty for an offense involving motor vehicle airbags would be increased from a class A misdemeanor to a state jail felony. The bill would also expand the penalty range creating a first degree felony if an offense involving motor vehicle airbags resulted in death. Under current law, an offense involving motor vehicle airbags is a state jail felony if the offense results in serious bodily injury or a third degree felony if the person committing the offense has a previous conviction for an offense involving motor vehicle airbags.

The bill would take effect on September 1, 2013 and apply to offenses committed on or after that date.

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**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** UP, AG, LM, ESI



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**February 18, 2013**

**TO:** Honorable Larry Phillips, Chair, House Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB38** by Menéndez (Relating to the penalty for an offense involving motor vehicle airbags.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code as it relates to the penalty for an offense involving motor vehicle airbags. Under the provisions of the bill, the penalty for an offense involving motor vehicle airbags would be increased from a class A misdemeanor to a state jail felony. The bill would also expand the penalty range creating a first degree felony if an offense involving motor vehicle airbags resulted in death. Under current law, an offense involving motor vehicle airbags is a state jail felony if the offense results in serious bodily injury or a third degree felony if the person committing the offense has a previous conviction for an offense involving motor vehicle airbags.

The bill would take effect on September 1, 2013 and apply to offenses committed on or after that date.

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**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** UP, AG, MC, LM

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Robert Nichols, Chair, Senate Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB38** by Menéndez (Relating to the penalty for an offense involving motor vehicle airbags.), **Committee Report 2nd House, Substituted**

The bill would amend the Transportation Code as it relates to the penalty for an offense involving motor vehicle airbags. Under the provisions of the bill, the penalty for an offense involving motor vehicle airbags would be increased from a class A misdemeanor to a state jail felony. The bill would also expand the penalty range creating a first degree felony if an offense involving motor vehicle airbags resulted in death. Under current law, an offense involving motor vehicle airbags is a state jail felony if the offense results in serious bodily injury or a third degree felony if the person committing the offense has a previous conviction for an offense involving motor vehicle airbags.

A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and/or a fine not to exceed \$4,000. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment (mandatory post conviction community supervision). A first-degree felony is punishable by confinement in prison for life or a term from 5 to 99 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Increasing the penalty or expanding the penalty range for any criminal offense is expected to result in increased demands upon the correctional resources of counties and or the state due to longer terms of probation, or longer terms of confinement in county jail, state jail, or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the State. This analysis assumes the number of offenders convicted under the provisions of the bill would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies. In fiscal year 2012, less than 10 people were arrested, placed on probation, or admitted to a state correctional facility for an offense involving motor vehicle airbags. Additionally in fiscal year 2012, less than 10 people were under community supervision or incarcerated within a state correctional facility for an offense involving motor vehicle airbags.

**Source Agencies:**

**LBB Staff:** UP, GG, LM, ESi

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**83RD LEGISLATIVE REGULAR SESSION**

**April 22, 2013**

**TO:** Honorable Robert Nichols, Chair, Senate Committee on Transportation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB38** by Menéndez (Relating to the penalty for an offense involving motor vehicle airbags.). **As Engrossed**

The bill would amend the Transportation Code as it relates to the penalty for an offense involving motor vehicle airbags. Under the provisions of the bill, the penalty for an offense involving motor vehicle airbags would be increased from a class A misdemeanor to a state jail felony. The bill would also expand the penalty range creating a first degree felony if an offense involving motor vehicle airbags resulted in death. Under current law, an offense involving motor vehicle airbags is a state jail felony if the offense results in serious bodily injury or a third degree felony if the person committing the offense has a previous conviction for an offense involving motor vehicle airbags.

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